

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

LEE BROUSSARD

§

VS.

§

CIVIL ACTION NO. 1:16cv137

ALFREAD KILLEN

§

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Lee Broussard, an inmate at the Wynne Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought the above-styled lawsuit.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the action be dismissed as frivolous and for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit. For the reasons set forth in the Report, plaintiff's complaint is frivolous and fails to state a claim upon which relief may be granted. Plaintiff objects that the Magistrate Judge applied Texas law on limitations instead of federal law. However, as explained in the report, the forum state furnishes the limitations period for § 1983 actions. *See Owens v. Okure*, 488 U.S. 235, 249-50 (1989). Therefore,

plaintiff's complaint, filed May 6, 2016, involving claims which occurred in 2013 are barred by the two year statute of limitations.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

SIGNED this the **18** day of **September, 2017**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", is written over a horizontal line.

Thad Heartfield
United States District Judge